IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 26008 of 2006(U)

PETITIONER:

1. **R.SUKUMARAN NAIR, III GRADE OVERSEER, KIP (O&M), SECTION 2/1 ADOOR.**
2. **BABU K.GEORGE, III GRADE OVERSEER, K.I.P (O&M) SECTION 4/1, ADOOR.**
3. **R.SUBHADRA, III GRADE OVERSEER, K.I.P (O&M), SECTION 2/1, ADOOR.**
4. **JOSE V, III GRADE OVERSEER, K.I.P, (O&M), SECTION 4/1, ADOOR.**

BY ADV. SRI.ARUN VALENCHERY

RESPONDENTS:

1. **STATE OF KERALA REPRESENTED BY SECRETARY LOCAL SELF GOVERNMENT DEPARTMENT, TRIVANDRUM.**
2. **THE CHIEF ENGINEER, IRRIGATION AND ADMINISTRATION, TRIVANDRUM.**
3. **THE DIRECTOR OF PANCHAYATS, TRIVANDRUM.**
4. **THE ASSISTANT EXECUTIVE ENGINEER, K.I.P (O&M), SUB DIVISION NO.1, ADOOR.**
5. **THE EXECUTIVE ENGINEER, K.I.P (R&B), DIVISION, KOTTARAKKARA.**

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 26008/2006 U

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGEMENT DT. 4/6/03 IN OP NO. 14495/03 OF THIS COURT.

EXT.P2. COPY OF THE REPRESENTATIONS DT. 23/06/03 BY PETITIONERS 1 TO 3 BEFORE THE R2.

EXT.P3. COPY OF THE RECEIPT ISSUED BY THE R5 ACKNOWLEDGING THE RECEIPT OF EXT. P1 JUDGMENT AND EXT. P2 REPRESENTATIONS.

EXT.P4. COPY OF THE JUDGMENT DT. 3/6/2006 IN WPC NO. 17018/2003 OF THIS COURT.

EXT.P5. COPY OF THE REPRESENTATION DT. 20/6/03 BEFORE THE R2 BY THE P4.

EXT.P6. COPY OF THE ORDER NO. A6. 3220/2003 DT. 16/10/2003 BY THE R2 EXEMPTING FROM DEPLOYMENT SIMILARLY PLACED PERSONS LIKE PETITIONERS.

EXT.P7. COPY OF THE REMINDERS DT. 8/8/06 SENT TO THE R1 BY THE PETITIONERS.

EXT.P8. COPY OF THE GO RT NO. 2099/06/LSGD DT. 25/08/06 BY R1.

EXT.P9. COPY OF THE ORDER NO. C2. 32253/2003 DT. 3/5/06 BY THE R2.

EXT.P10. COPY OF THE REPRESENTATIONS DT. 20/09/06 BEFORE THE R1 AND R2 BY THE PETITIONERS.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE REPRESENTATION DT. 20/6/06.

EXT.R2A. COPY OF THE JUDGMENT IN WPC NO. 25371/2004.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 26008 of 2006-U

Dated this the 5th day of July, 2007.

J U D G M E N T

The petitioners 1 to 3 have approached this Court feeling aggrieved by their deployment to the Department of Local Self Government, from the Water Resources Department. This Court by Ext.P1 judgment directed to consider the representations filed by petitioners 1 to 3 in this writ petition and also to retain them, till the representations filed by them against their deployment are heard and disposed of. There was a similar direction in the case of 4th petitioner also, by Ext.P4 judgment.

2. There is some dispute between the parties, as to whether the petitioners have produced the copy of the judgment before the Government or not. The Government proceeded on the footing that they did not produce the judgment and therefore passed Ext.P8 impugned order directing to relieve petitioners 1 to 3 from the Water Resources Department, so that they can join the Local Self Government Department. It appears that the petitioners did not join duty even thereafter. So, Ext.P9 series communications were issued to withhold their salary for non-obeying the directions issued by the competent authority. The petitioners approached this Court challenging Exts.P8 and P9. The learned Single Judge did not grant stay of those orders. In appeal, the Division Bench also declined to

interfere, but ordered that the salary may be released to the petitioners because they are working. The petitioners pray for quashing Exts.P8 and P9.

2. The respondents have filed a counter affidavit supporting the impugned orders.

3. Heard. In view of the interim order passed by this Court and its confirmation by the Division Bench, the deployment took effect. The petitioners grievance regarding deployment was also examined by the Government, by Ext.P8 and rejected. Going by Ext.P8, I find no infirmity in the same, warranting interference under Article 226 of the Constitution of India. The surplus hands in the Water Resources Department have been deployed to the Local Self Government Department, in public interest. Except some personal inconveniences in the postings, none of the rights of the petitioners are affected by the deployment. When the same is done in public interest, based on the plea of personal inconveniences this Court is not justified in interfering with the same.

In the result, the Writ Petition fails, and it is dismissed. It is made clear that all the contentions of the petitioners regarding disciplinary proceedings initiated against them for not joining the Department of Local Self Government, pursuant to Ext.P8 are kept open. If any final order are passed against them, they will be free to challenge it. In that event, the observations contained in this judgment or in the interim orders passed in

this writ petition will not affect the rights of the petitioners in this regard.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS